

Exhibit 374

PART 36

*United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS*

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

higher court or authority against the decisions of an inferior one; the appeal so made... b. ground of appeal, title, claim. *Obs. Rare.* 2. *Gen.* The action of appealing or calling on; entreaty, or earnest address. *Obs. II.* Calling, designation [from later Fr. *Apeller*, or L. *appellare*.] 3. The action of calling by name; nomenclature. 4. A designation, name or title given: a. to a particular person or thing. b. to a class: A descriptive or connotative name." OED. 1. A name or title. 2. The act of naming or calling." F&W. Act of calling by a name;...a name or designation Webster's Collegiate Dictionary, Fifth Edition, 1947. N.f. appealing, calling, naming, appellation. Cassell's French-English and English French Dictionary.

***ACCOST.** To speak to first; address; greet... Manner or act of addressing; greeting. F&W.

ARTIFICIAL. Created by art, or by law, existing only by force of or in contemplation of law. Black's 1st.

ATTORN. v. Law [a. OF. *Atorne-r, aturne-r, atourne-r* (whence law Latin *attornare*) to turn, turn to, assign, attribute, dispose, arrange, order, appoint, constitute, ordain, decree, f. a to + *tourner* to Turn. The analogical spelling is a(t)turn; but under the influence of Med.L. *attornare*, the late AF, became *attorner*, whence *attorn* passed into the Eng. Law-books.] 1. *Trans.* To turn over to another; to assign, transfer (goods, tenants' service, allegiance, etc.) 2. To transfer oneself (i.e. one's homage and allegiance) from one lord to another; to yield allegiance, or do homage to, as lord. 3. *Mod. Law.* To agree formally to be the tenant of one into whose possession the estate has passed; to do some act which constitutes a legal acknowledgement of the new landlord.

ATTORNEY. [a. OF. *Atorne, aturne, atourne*, pa. pple. masc. of *atourner* to ATTORN, in sense of 'one appointed or one constituted,' whence all the specific uses. (The statement found in the law dictionaries for the 200 years, that the word means 'one who acts in the turn of another' is a bad guess.) For spelling cf. ATTORN.] 1. One appointed or ordained to act for another; an agent, deputy, commissioner. In later times only *fig.* And perhaps with conscious reference to sense 2. *Obs.* (*Attorney* in fact, private *attorney*) one duly appointed or constituted (by *Letter* or *Power of Attorney*) to act for another in business and legal matters, either generally, as in payment receipt, and investment of money, in suing and being sued, etc., or in some specific act, which the principal, by reason of absence, is unable to perform in person. Hence the contrast 'in person' and 'by attorney,' frequent also in *fig.* Senses. 3. (*Attorney-at-Law*, public *attorney*) A professional and properly-qualified legal agent practicing in the courts of Common Law (as a solicitor practiced in the courts of Equity); one who conducted litigation in these courts, preparing the case for barristers or counsel, whose duty and privilege it is to plead and argue in open court. 4. *Transf.* An advocate, pleader, mediator. 5. Specific title of the law officer of various councils, etc., and the clerk of various courts. 6. The King's Attorney: (earlier) descriptive designation of the legal officer now called ATTORNEY-GENERAL. Mr. Attorney, the 'style' used in addressing (formerly also in speaking of) him. 7. *attrib.*, as in attorney-cunning, etc. OED.

ATTORNEY & CLIENT. His first duty is to the courts and the public, not to the client*, and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter**. The office of **attorney** is indispensable to the administration of justice and is intimate an peculiar in its relation to, and vital to the well-being of, the court***. An **attorney** has a duty to aid the court in seeing that actions and proceedings in which his engaged as counsel are conducted in a dignified and orderly manner, free from passion and personal animosities, and that all causes brought to an issue are tried and decided on their merits only****... **Duty not looked on lightly.** **Attorneys** as officers of court have duty to maintain respect due court which duty should exceed that imposed upon the public generally and which duty should not be looked upon lightly and cannot be shirked under the guise of representing interest of a party litigant... **Arm of State.** As attorney, is an officer of the court and as such an

officer and arm of the state (124 F. Supp. 257)... **Nature and duty of obligation.** One who is admitted to practice as **attorney** at law, both by virtue of his oath of office and customs and traditions of the legal profession, owes to the court the highest duty of fidelity. (97 N.W. 2d 287; 255 Minn. 370 In re: Lord). Accepting employment entails duty to courts and faithful performance of services... **Vital Public Interest.** The relation of **attorney** and client is affected by vital public interest... **Letters Patent.** Right to practice law is a property right, existing by virtue of letter patent (168 A. 229; 114 N.J. eq. 68)... *7 Corpus Juris Secundum* 4 (1980). Practicing Attorney. Ability which is greater than that possessed by average citizen... *7 Corpus Juris Secundum* 29 (1980). Accepting employment entails duty to courts and faithful performance of services... See Note.

**U.S.-U.S. v. Frank, D.C.N.J.*, 53 F.2d 128, reversed on other grounds *Loughlin v. U.S.*, 57 F.2d 1080, and reversed on other grounds *Pearse v. U.S.*, 59 F.2d 518-In re Kelly, D.C. Mont. 243 F. 696; Fla.-Petition of Florida State Bar Ass'n, 186 So. 280, 134 Fla. 851; Neb.-State ex rel. *Nebraska State Bar Ass'n v. Jensen*, 105 N.W. 2d 459, 171 Neb. 1, certiorari denied 81 S.Ct. 905, 365 U.S. 870, 5 L.Ed.2d 860; N.D.-*State v. Stokes*, 243 N.W. 2d 372; Wis. Petition of Board of Law Examiners, Examination of 1928, 210 N.W. 710, 191 Wis. 359.

***Va.-Holt. v. Com.*, 183 S.E. 2d 809, 205 Va., 332, reversed on other grounds 85 S.Ct. 1375, 381 U.S. 131, 14 L.Ed.2d 290.

****La.-State v. Woodville*, 108 So. 309, 161 L. 125

*****Min.-Hoppe v. Klapperich*, 28 N.W. 2d 780, 224 Minn. 224, 173 A.L.R. 622.

ATTORNMENT. *Law.* Forms: see ATTORN v. [a. OF. Atournement, f. atourner: see ATTORN and -MENT.] 1. A turning over, transference, assignment. 2. *spec.* The transference of his homage and service by a tenant to anew feudal lord; hence, legal acknowledgement of the new landlord. QED.

BANKRUPTCY. Popularly defined as insolvency, the inability of a debtor to pay his debts as they become due. Technically however, it is the legal process under the Federal **Bankruptcy** Act by which assets of the debtor are liquidated as quickly as possible to pay off his creditors and to discharge the **bankrupt**, or free him of his debts, so he can start anew. In reorganization, on the other hand, liquidation may be avoided and the debtor may continue to function, pay his creditors, and carry on business. *Barron's 3rd*. "Mr. Speaker. We are now here in Chapter 11. Members of Congress are official trustees presiding over the greatest reorganization, in world history, the U.S. Government... It is an established fact that the United States Federal Government has been dissolved by the Emergency Banking Act, March 9, 1933, 48 Stat. 1, Public Law 89-719; declared by President Roosevelt, being **bankrupt** and insolvent. H.J.R. 192, 73rd Congress in session June 5, 1933---Joint Resolution to Suspend the Gold Standard and Abrogate the Gold Clause dissolved the Sovereign Authority of the United States and the official capacities of all United States Governmental Offices, Officers, and Departments and is further evidence that the United States Federal Government exists today in name only..." *Congressional Record*, March 17, 1993, Vol. 33.

BONA-FIDE SIGNATURE. In contracts, any symbol executed or adopted by a party attested that party voluntarily entered into the agreement in good faith, that all terms conditions and obligations were fully disclosed, and that the party fully understood the consequences of the instrument.

BOND. A certificate or evidence of a debt on which the issuing company or governmental body promises to pay the bondholders a specified amount of interest for a specified length of time, and to repay the loan on the expiration date. A long term debt instrument that promises to pay the lender a series of periodic interest payments in addition to returning the principal at maturity. In every case a bond represents debt—its holder is a creditor of the corporation and not a part owner as is the shareholder...Black's 6th.

CAPACITY. Legal capacity is the attribute of a person who can acquire new rights, or transfer rights, or assume duties according to the mere dictates of his own will, as manifested in juristic acts, without any restraint or hindrance arising from his status or legal condition. Ability; qualification; legal power or right. Applied in this sense to the attribute of person (natural or artificial) growing out of their status or juristic condition, which enables them to perform civil acts; as capacity to hold lands, capacity to devise, etc. Black's 1st.

CAPITAL (LETTER). *adj.* (of letters) of the large size used at the beginning of a sentence or as the first letter of a proper name." ACED.

CHAPTER 11 REORGANIZATION. In addition to voluntary and involuntary proceedings in which a debtor is adjudged bankrupt, under **Chapter 11** a debtor is permitted to postpone all payments on debts so that he can **reorganize** his business. While other bankruptcy proceedings seek to have the debtor's assets sold and to have all the creditors paid to the extent possible, **Chapter 11** seeks to give the debtor a breathing spell with the hope that his business will recover and all his creditors will be fully repaid. Barron's 3rd. "Mr. Speaker. We are now here in **Chapter 11**. Members of Congress are official trustees presiding over the greatest **reorganization** in world history, the U.S. Government." James A. Traficant Jr., Congressional Record. March 17, 1993, Vol. 33.

Note: The U.S. Government, a/k/a "United States, Inc.," a/k/a "Washington D.C.," is legally bankrupt and in Chapter 11 Reorganization. The Secretary of the Treasury is the receiver in bankruptcy (Reorganization Plan No. 26 (1950), 5 U.S.C.A. 903, Public law 94-564, Legislative History, page 5967) and runs the corporation on behalf of the creditor, the Federal Reserve.

CHARGE. [<>OF charg(i)e(r) <LL *carricare* to load a wagon] *v.* to impose a burden, obligation, or lien; to create a claim against property; to claim, to demand; to instruct a jury on matters of law. **n.** In general an incumbrance, lien or burden; an obligation, or duty; a liability; an accusation. In contracts. An obligation, binding upon him who enters into it, which may be removed or taken away by a discharge. Black's 1st.

"CITY OF CASTLE ROCK" means the QUASI-MUNICIPAL CORPORATION as a political subdivision of "**COLORADO STATE**" or "**STATE OF COLORADO**."

"CITY OF DENVER" means the QUASI-MUNICIPAL CORPORATION as a political subdivision of "**COLORADO STATE**" or "**STATE OF COLORADO**."

The term "**City of: Castle Rock**" is a corporate body organized under process executed in the name "**State of Colorado**."

The term "**City of: Denver**" is a corporate body organized under process executed in the name "**State of Colorado**."

CLAIM. A challenge of property or ownership of a thing, which is wrongfully withheld; to demand as one's own; to assert. A right or title. Black's 4th.

CLIENT. A client is one who applies to a lawyer or counselor for advice and direction in a question of law, or commits his cause to his management in presenting a claim or defending against a suit in a court of justice; one who retains the attorney, is responsible to him for his fees, and to whom the attorney is responsible for the management of the suit; one who communicates facts to an attorney expecting profession advice. **Clients** are also called "wards of the court" in regard to their relationship with attorneys. *Corpus Juris Secundum*, 1980, Section 4.

"CODE" = A code implies compilation of existing laws, systematic arrangement chapters, subheads, table of contents, and index, and revision to harmonize conflicts, supply omissions, and generally clarify and make complete body of laws designed to regulate completely subjects to which they relate.

"CODIFICATION" = process of collecting and arranging the laws of a County or State into a code, i.e., into a complete system of positive law, scientifically ordered, and promulgated by legislative authority.

COLLATERAL. "Collateral" means the property subject to a security interest or agricultural lien. Includes all of the following: (A) Proceeds to which a security interest attaches. (B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold. (C) Goods that are the subject of a consignment. UCC 9-102(a)(12). Anything that is sued to guarantee the payment of a loan or the fulfillment of some other obligation. WSUG.

COLOR. Semblance; disguise. **Color** is often used to designate the hiding of a set of facts behind a sham, taking advantage of the confidence of the confidence but technically proper, legal theory or legal right. Barron's 3rd. See **color of law**.

COLOR OF LAW. The appearance or semblance, without the substance, of legal right. Misuse of power, possessed by virtue of state law and made possible only because wrongdoer is clothed with authority of state, is action taken under "color of law". Black's 5th.

COLORABLE. That which is in appearance only, and not in reality, what it purports to be, hence counterfeit, feigned, having the appearance of truth. Black's 5th. In the law of trademarks, this phrase denotes such a close or ingenious imitation as to be calculated to deceive ordinary persons. Black's 5th.

CONFLICT OF LAW. When citizens of different states, republics or jurisdictions are parties to suit or other legal proceeding. A contrary or opposition in laws of states, countries, or jurisdictions in cases where the rights of the parties, from their relations to each other or to the subject-matter in dispute, are liable to be affected by the laws of both jurisdictions. The effect of the laws of every state or republic affect and bind all property, real or personal, situated within its jurisdictional territory, all persons resident within its own limits of jurisdiction, and are supreme ambassadors and other public ministers while within the jurisdiction of a foreign power are not subject to the jurisdiction of said laws.

Constitution for the several United States of America as amended A.D. 1791. Means the organic instrument of the original jurisdiction of the People on the Land at The several United States of America as amended, adopted by the People A.D. 1791.

COURT. In International Law, "court" shall mean "the person and suite of the sovereign; place where the sovereign sojourns with his regal retinue, wherever that may be, "court" shall also include Relator.

COVIN. A secret conspiracy or agreement between two or more persons to injure or defraud another. Black's 6th. A secret contrivance between two or more persons to defraud and prejudice another in his rights. Bouvier's 8th.

"DEBTOR" = juristic person, means an abstract, legal entity *ens legis*, such as a corporation, created by construct of law, attached to an account, an imaginary entity such as Debtor, i.e. "MICHAEL TODD RICKS"

DE FACTO. In fact, in deed, actually. This phrase is used to characterize an officer, a government, a past action, or a state of affairs which must be accepted for all practical purposes, but is illegal or illegitimate. Thus, an office, position or status existing under a claim or color of right such as a *de facto* corporation. Black's 6th.

DE JURE. [Law Latin "as a matter of law"] Existing by right or according to law. Black's 7th. Descriptive of a condition in which there has been total compliance with all requirements of law. Of right; legitimate; lawful; by right and just title. In this sense it is the contrary of *de facto*. Black's 6th.

DEFAULT. The omission or failure to fulfill a duty, observe a promise, discharge an obligation, or perform an agreement. **In practice.** Omission; neglect or failure. When a defendant in an action at law omits to plead within the time allowed him for that purpose, or fails to appear on the trial, he is said to make **default**, and the judgment entered in the former case is technically called a "judgment by **default**." Black's 1st.

DERIVATIVE. Means coming from another; taken from something preceding, secondary; that which has not the origin in itself, but obtains existence from something foregoing and of a more primal and fundamental nature, anything derived from another.

DISPUTABLE PRESUMPTION. A species of evidence that may be accepted and acted upon when there is no other evidence to uphold contention for which it stands; and when evidence is introduced supporting such contention, evidence takes place or **presumption**, and there is no necessity for indulging in any **presumption**. A rule of law to be laid down by the court, which shifts to the party against whom it operates the burden of evidence merely. Black's 6th.

ENS LEGIS. A creature of the law; an artificial being, as contrasted with a natural person. Applied to corporations, considered as deriving their existence entirely from Law. Black's 4th.

ENTITY. Includes, a corporation and foreign corporation, profit and not-for-profit unincorporated associations, business trust, estate, trust, partnership, and two or more persons having a joint or common interest, and the State, United States, and a foreign government. The term "Entity" does not include the term "Inhabitant."

ESTOPPEL. Party is prevented by his own acts from claiming a right to detriment of other party who was entitled to rely on such conduct and has acted accordingly. An estoppel arises when one is concluded and forbidden by law to speak against his own act or deed... Estoppel is a bar or impediment which precludes allegation or denial of a certain fact or state of acts, in consequence of previous allegation or denial or conduct or admission, or in consequence of a final adjudication of the matter in a court of law. It operates to

put party entitled to its benefits in same position as if thing represented were true... Estoppel is or may be based on... actual or constructive fraudulent conduct, admissions or denial by which another is induced to act to his injury agreement on and settlement of facts by force of entering into contract, concealment of facts. Black's 5th.

FAULT. In the civil law. Negligence; want of care. An improper act or omission injurious to another and transpiring through negligence, rashness, or ignorance. There are three degrees of **faults**—the gross, the slight, and the very light **fault**. The gross **fault** is that which proceeds from inexcusable negligence or ignorance; it is considered as nearly equal to fraud. The slight **fault** is that want of care which a prudent man usually takes of his business. The very slight **fault** is that which is excusable, and for which no responsibility is incurred. Black's 1st.

FEDERAL. Of or pertaining to, or founded upon and organized by a compact or act of union between separate sovereign, as (1) by a league for common interest and defense as regards external relations, the internal sovereignty of each member remaining unimpaired, as the Hanseatic League or the German Confederation; or (2) by a permanent act of union founded on the consent of the people duly expressed, constituting as a government supreme within the sphere of the powers granted to it by that act of union, as the United States of America.—The constitution of the United States of America is of a very different nature than that of the German Confederation. It is not merely a league of sovereign States for their common defense against external and internal violence, but a supreme **federal** government or composite State, acting not only upon the sovereign members of the Union, but directly upon all its citizens in their individual and corporate capacities. *WHEATON Elements International Law* § 52, p.78 [L. B. & CO. '66] – From 1776 to 1789 the United States were a confederation; after 1789 it was a **federal** nation. A Standard Dictionary of the English Language, Funk & Wagnalls Company, 1903 *See Note*.

*Note: Observe the last two entries above for what they reveal and confirm: (1) that this was acknowledged no later than 1866 (date of publication of *Elements International Law*) that people have both a private and corporate capacity. This is the essence of the difference between true name and TRADE NAME, flesh-and-blood man and straw man; and (2) the several States were nation/countries unto themselves—and referenced in the plural—between 1776 and 1789, but following the unanimous adoptions of the Constitution (Rhode Island was the last to adopt, May 20, 1790) they were unified into a single federal nation and spoken of in the singular.*

FICTIONAL NAME. A counterfeit, or pretended **name** taken by a person, differing in some essential particular from his true **name**, (consisting of Christian **name** and patronymic*), with the implication that it is meant to deceive or mislead. Black's 4th.

***PATRONYMIC.** Name of the house/father; family; surname.

“**FOREIGN STATE**” is that except as used in Pub. L. 94-583, § 4(a), Oct. 21, 1976, 90 Stat. 2894, [codified in Title 28 U.S.C. 1608], includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined... which is a separate legal person, corporate or otherwise and which is an organ of a foreign state or political subdivision thereof,... and which is not a citizen of and State of the United States as defined in PL June 25, 1948, ch. 642, 62 Stat. 930, [codified in Title 28 U.S.C. § 1332(c)(1)(2)] nor created under the laws of any third country.

FRAUD. An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of

fact, whether by words or by conduct, by false misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that they shall act upon it to his legal injury. Any kind of artifice employed by one person to deceive another... A generic term embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated. Black's 5th. **Fraud** vitiates every transaction and all contracts. Indeed, the principle is often stated, in broad and sweeping language, that **fraud** destroys the validity of everything into which it enters, and that it vitiates the most solemn contracts documents, and even judgments. **Fraud**, as it is sometimes said, vitiates every act, which statement embodies a thoroughly sound doctrine when it is properly applied to the subject matter in controversy and to the parties thereto and in proper forum. 37 American Jurisprudence 2d. **Fraud** § 8.

GOOD FAITH. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing. UCC 9-102(a)(43).

HOUSE JOINT RESOLUTION OF JUNE 5, 1933. "...Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled: That (a) every provision contained in or made with respect to any obligation which purports to give the obligee the right to require payment in gold or a particular kind of coin or currency, or in the amount of money of the United States measured thereby, is declared to be against public policy, and no such provision shall be contained in or made with respect to any obligation hereafter incurred. Every obligation heretofore made with respect thereto, shall be discharged upon payment, dollar for dollar, in any such coin or currency, which at the time of payment is legal tender for public and private debts..." Public Law 73-10.

IDEM SONANS (Latin): Sounding the same or alike, having the same sound. A term applied to names which are substantially the same, though slightly varied in the spelling, as "Lawrence" and "Lawrence," and the like. Black's 1st.

INCLUDE. To confine within, hold as in an enclosure, take in, attain, shut up, contain, enclose, comprise, comprehend, embrace, involve.

INDIVIDUAL. As a noun, this term denotes a single person as distinguished from a group or class, as also, very commonly, a private or natural person as distinguished from partnership, corporation, or association; but it is said that this restrictive signification is not necessarily inherent in the word, and that it may, in proper cases, include artificial persons. The term "individual" does not include the term "inhabitant."

INFAMOUS CRIME. A crime punishable by death in a State or UNITED STATES penitentiary or imprisonment in a State or UNITED STATES correctional facility.

Inhabitant, Inhabitant's, Inhabitants, Inhabitant(s), the Inhabitant. One of the natural born sovereign living people, possessing and entitled to the enjoyment of all the rights, privileges and immunities enumerated or un-enumerated in the United States Constitution, which can be enjoyed by any one of the sovereign people, protected by the Constitution and Laws of the United States for the United States of America. The term "Inhabitant" does not include the terms "Person, Ens Legis Entity, Whoever, State citizen, State resident, or Individual."

The terms "Inhabitant," "Inhabitant(s)", "Inhabitant's", **The Inhabitant**", and "**The Inhabitant's**" means Michael-Todd of the Ricks-Bey family, one of the sovereign Moorish living people at the state of